



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,717	11/24/2003	Richard D. Roe	038190/269746	5400
826	7590	03/21/2005	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000				MACK, COREY D
ART UNIT		PAPER NUMBER		
		2855		

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	RM
	10/720,717 Examiner Corey D. Mack	ROE ET AL. Art Unit 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 March 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 10-16 is/are allowed.
 6) Claim(s) 1,6-9 and 17-22 is/are rejected.
 7) Claim(s) 2-5 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 24 November 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/31/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 8, 9, 17, 19, 20, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Peppel, et al. (US 5,945,607).

A. With respect to Claims 1 and 17, Peppel discloses a loading device comprising a load indicator 32 to indicate the load applied to the structure 18; a connector 14 for connecting the load indicator to the surface of the structure being inspected; a load applicator 16 in mechanical communication with the connector and the load indicator for applying the load to the structure; and, a support 30 for supporting the load indicator and connector, wherein the support contacts a surface of the structure proximate the area of the structure to be inspected.

B. With respect to Claims 8 and 20, Peppel discloses that the connector defines a threaded orifice 43 for threading onto the surface of the structure.

C. With respect to Claims 9 and 21, Peppel discloses that a protrusion 44 is removably adhered to the surface of the structure and the connector is connected to the protrusion.

D. With respect to Claim 19, Peppel discloses adjusting the length of one or more legs of the support (column 2, lines 45-57).

E. With respect to Claim 22, Peppel discloses performing non-destructive testing of the structure (column 1, lines 8-63).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 6, 7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peppel, et al. (US 5,945,607) in view of Linhorst (US 2,760,370).

With respect to Claim 7, Peppel discloses the claimed invention, except they do not disclose a dial for indicating the load. Fletcher discloses a load tester comprising a dial 51 for indicating the load applied a sample A under test. Therefore, at the time the invention was made, it would have been within the knowledge of one of ordinary skill in the art to include in Peppel a dial for indicating a load applied to a test sample.

5. Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peppel, et al. (US 5,945,607) in view of Fletcher, et al. (US 3,882,719).

A. With respect to Claims 6 and 18, Peppel discloses the claimed invention, except they do not disclose a turnbuckle that applies tension between the load indicator and connector. Fletcher discloses a turnbuckle 10 that attaches to a connector 16 and a load indicator, wherein a load is applied by rotating the turnbuckle to create tension (column 2, line 60 – column 3, line 54). Since Peppel and Fletcher are both from the same field of endeavor, i.e. loading devices, the purpose disclosed by Fletcher would have been recognized in the pertinent art of Peppel. Therefore, at the time the invention was made, it would have been within the knowledge of one

Art Unit: 2855

of ordinary skill in the art to include in Peppel a turnbuckle for applying tension on loading device.

Allowable Subject Matter

6. Claims 10-16 are allowed.
7. Claims 2-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey D. Mack whose telephone number is (571) 272-2181. The examiner can normally be reached on M-F, 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CDM

Corey D. Mack, Esq.
Patent Examiner
Art Unit 2855

March 9, 2005



MAX NOORI
PRIMARY EXAMINER